

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

VICTIM RIGHTS LAW CENTER, et al.,

Plaintiffs,

v.

MIGUEL CARDONA, in his official capacity as
Secretary of Education, et al.,

Defendants,

FOUNDATION FOR INDIVIDUAL
RIGHTS IN EDUCATION, INDEPENDENT
WOMEN'S LAW CENTER, SPEECH FIRST,
INC.,

[Proposed] Intervenor-Defendants.

Civil Action No. 1:20-cv-11104-WGY

[PROTECTIVE] NOTICE OF APPEAL

Proposed Intervenor-Defendants—the Foundation for Individual Rights in Education, the Independent Women’s Law Center, and Speech First—hereby appeal to the United States Court of Appeals for the First Circuit from the judgment this Court entered on July 28, 2021 (Doc. 183), as well as the order this Court entered on August 10, 2021 (Doc. 186). Proposed Intervenor-Defendants’ motion to intervene was denied by this Court July 27, 2020 (Doc. 35), but the intervention motion is the subject of a pending petition for a writ of certiorari. *See Foundation for Individual Rights in Education v. Victim Rights Law Ctr.*, No. 21-84 (U.S.). If Proposed Intervenor-Defendants are ultimately permitted to intervene, this notice of appeal will “become effective.” *Mausolf v. Babbitt*, 125 F.3d 661, 666 (8th Cir. 1997) (quoting 15A Wright & Miller, Fed. Prac. & Procedure §3902.1, at 113 (2d ed. 1991)); *see also Perry v. Schwarzenegger*, 630 F.3d 898, 902–03 (9th Cir. 2011) (explaining that it is proper for “a putative intervenor [who] wishes to press an appeal on the merits” to file “a notice of appeal from the order denying their motion to intervene, and a protective notice of appeal from the district court’s order on the merits”); *In re Synthroid Mktg. Litig.*, 264 F.3d 712, 716 (7th Cir. 2001) (noting that, “when a substantive appeal is contingent on the success of the intervention appeal, [proposed intervenors]

should file two notices of appeal: one from the denial of intervention and a second springing or contingent appeal from the final judgment—which will kick in if they are successful on the first.”).

Dated: September 27, 2021

Respectfully submitted,

/s/ Patrick Strawbridge
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Counsel for Proposed Intervenor-Defendants

CERTIFICATE OF SERVICE

I e-filed this notice of appeal with the Court via ECF, which will notify everyone requiring notice.

Dated: September 27, 2021

/s/ Patrick Strawbridge